



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

PENDING RAILWAY LEGISLATION

TIMOTHY SHEA

Acting President Brotherhood of Locomotive Firemen and Enginemen

I AM very glad, indeed, to be present on this occasion and make a few observations concerning pending railroad legislation now before Congress, known as the Cummins and Esch bills.

At the outset I desire to say that there are always two sides to every question, and in this connection I am frank to admit that capital has rights that must be recognized. On the other hand, I am sure you will agree with me that labor has rights that must not only be recognized but respected.

Capital cannot get along without labor, and, conversely, labor cannot very well get along without capital because out of labor capital and all of the wealth of the country is produced.

The railway labor organizations are opposed to the fundamental basis of both the so-called Cummins and Esch bills. They are unalterably committed to the principle of public ownership and a certain form of public operation. As a consequence, we do not favor any pending railway legislation, however modified its form may be, which has for its object a return to the old conditions of private ownership and operation of the transportation industry. I wish to emphasize this point of view at the outset, so that in discussing special features of the Senate and House bills which are peculiarly objectionable to us, I may not possibly be misunderstood as giving my assent to other parts of these proposals, or of being in accord with the general theory of ownership and operation upon which they are constructed.

Anti-Strike Provisions

With this reservation in mind and considering the bills as they stand, the most objectionable provisions so far as employees are concerned are those in the Cummins bill dealing with labor conditions and relations. The authors of the Cummins bill directly state that they are determined to shackle labor by taking away from it the right to strike. The framers of the Esch bill at first had the same object in view. The labor provisions which they originally proposed were even more vicious than those of the

Senate bill, because they were indirect and subtle. Their effect would have been to disrupt labor organizations, dissipate their resources, absorb their protective funds and render their leadership powerless by making non-compliance with a wage award or finding a legal ground for damages. When this was pointed out to the House, these labor provisions, I am glad to say, were stricken out of the Esch bill. The object which it is hoped to attain by the Cummins bill, however, is identical—the deprivation of labor of its most effective weapon,—the right to strike.

A Deliberate Conspiracy

The anti-strike provisions of the Cummins bill are justified outwardly by the claim that the public welfare must be protected against dislocations and stoppage of transportation facilities. The distinguished Chairman of the Senate Committee, whose name the Senate bill bears, and many others in the Senate, are undoubtedly sincere in this point of view. But they are blinded by sinister interests which lurk invisibly in the background. We, who represent labor, may be unduly suspicious at times, but we pride ourselves in the fact that we have long since become proficient in detecting the hand of Esau when we hear a voice which seems to be the voice of Jacob. And we have found it wise not to forget another Biblical story. You will recall that the prophet Samuel tells that when Joab met Amasa, he said, "Art thou in health, my brother?" and, as was the custom of friendly greeting in those early days, he took Amasa by the beard with the right hand to kiss him. But in an excess of confidence "Amasa took no heed to the sword that was in Joab's hand; so he smote him therewith in the fifth rib" and Amasa died.

We have not the confidence of Amasa and when we look beyond these anti-strike proposals we can see the sword of treachery. The chief executives of the railway labor organizations have become convinced—and their conclusions are based on actual evidence—that the pending anti-strike legislation is the indirect outcome of a conspiracy to reduce the wages of railroad employees below their present inadequate levels. The dominating financial interests in the transportation industry, who, in the background, conspired to bring about this legislation under the dissimulation of protecting the public against railway strikes, have decided that when government control of the transportation industry is terminated, they will reduce the rates of pay of railway

workers and, if strikes result, they will break them by fining or imprisoning the strikers and their leaders. It is the same reasoning and it is the same group who have attempted to continue the enslavement of the iron and steel workers by denying them the right of collective bargaining. These interests are also responsible for the failure of the National Industrial Conference called by President Wilson to function. They are also the fundamental forces against bituminous mine workers and are at the bottom of the conspiracy to exploit both the miners and the consumers of coal. Their object is never altruistic but always sinister. Their purpose is to continue unchecked their war-time profiteering, and the exploitation of wage-earners and the public, in which profitable policy they had been so successful prior to the war. It is unnecessary to say that not only as railway workers, but as free and patriotic citizens in our self-governing American republic, we shall resist this conspiracy to the uttermost. Under no conditions shall we consent to be shackled with legal chains of industrial slavery.

Anti-Strike Legislation Means Involuntary Servitude

There is no blinking of the fact that the real interest and the vital significance of anti-strike legislation to the railroad employe is involuntary servitude. It will render him powerless in the presence of his most formidable and ruthless adversaries. Not only would his power of defense be lost, but what is of almost equal importance, he would be without strength for an offensive of any description or for the advocacy of a constructive program of any merit. It is strange and incredible, that when we have just made every sacrifice of life and property to destroy political autocracy in Europe, and when we have been encouraged to look forward to a larger measure of industrial democracy, that a policy is formulated and advocated which can mean nothing else than placing railroad workers under the control of autocratic financial and industrial interests.

Theoretically Unsound and Unjust

The anti-strike provisions of the Senate bill now before the Congress are also theoretically unsound and manifestly inequitable. The Chairman of the Senate Committee in his report accompanying his bill tells the railroad employes that he has provided a series of boards or wage-courts to pass upon their com-

plaints and, as in civil and political life, their differences are justly decided by the courts, so in the transportation world, their complaints will be justly passed upon by the machinery which he has proposed. Such a statement is manifestly unsound however, for the reason that the industrial constitutionalism and judicialism which he proposes to establish cannot be compared with our fundamental political laws or the courts which have been established for their interpretation and application.

The Constitution of the United States and all democratic constitutions contain a code or bill of rights guaranteeing personal and civil liberty to the individual. The courts in their decisions act under the guidance or limitations of these fundamental guarantees. To the individual they are a condition precedent to the acceptance of the constitution itself and to his subordination to the judicial agencies under the constitution. Moreover, all political constitutions provide reasonably prompt means for their own amendment or revision.

But the pending Senate bill provides no means beyond influencing Congress for a change in its labor provisions. Neither does it contain any bill of rights or fundamental guarantees or safeguards to labor. If the right of strike or revolt against industrial conditions is to be denied, every consideration of justice requires that such legislation should be accompanied by an industrial code or bill of industrial rights to labor, such as the right to a living wage, the right to a reasonable workday, the right to organize and to deal collectively by representatives of their own selection, the denial that labor should be treated as a commodity, and similar principles which were adopted by our own government as a war policy towards labor, or which have been sanctioned by the enlightened opinion of the civilized world in the so-called labor provisions of the peace treaty. Under such a code, wage adjustment boards, or industrial courts, so to speak, would be given a code of the fundamental rights of labor as a basis for their procedure and decisions. There would be a reasonable guarantee that the grievances of employees would be justly settled. Protection of the public against strikes would be unnecessary, for they would never occur. The enactment of the anti-strike legislation now before the Senate, however, without the assurance of any fundamental rights of labor, would be equivalent to the imposition by force upon an unwilling people of a political constitution which did not contain any guarantees as to the rights

of freedom of speech, of worship, or of assembly, and announcing to the individual citizens that they should submit all their injustices to a series of boards or courts under that constitution and thus secure a just settlement of all of their complaints. The enactment of anti-strike legislation for the railroad employees would, in other words, be identically the same as the forcing upon a part of the people by all of the people restrictions for their government without any measures for their protection.

We submit that such legislation is not only unjust and intolerable, but is opposed to the fundamental ideals of American democracy. If labor is to be deprived of the right to strike and is to be required to submit all its grievances to judicial determination, such a policy must obviously be preceded by legislation or agreement which will give to labor in the form of industrial principles or fundamental law the assurances of its fundamental economic rights. Without such a policy, anti-strike legislation will open wide the door to an intolerable exploitation of the working classes which will result in violent protest and the breakdown of civil government.

It is for this reason that the third practical consideration against such legislation may be stated. It is not feasible. Being unjust and undemocratic, free men will not endure it. It is, therefore, impracticable. All of the industrial and commercial nations of the world have in past years tried such a policy in some form, and with the exception of France and Russia under the old regime, they all found that it did not work. In Russia, discontented public service employees were executed, and in France, because of its laws for universal military service, strikers were called to the colors and defeated by military coercion. Hundreds of thousands of men cannot in the event of a discontinuance of work be placed in jail. Men will not submit to the confiscation of their financial resources and property because they have refused to accede to unjust working or living conditions.

These facts must surely have been known to the Senate committee which recommended the Cummins bill. If not, they should have known. Three years ago, an exhaustive report was prepared under the auspices of this committee, which showed that anti-strike legislation wherever tried had been found to be impracticable and ineffective.

Finally, it may be said that the proposal of such legislation

at this time is all the more unpardonable because it is unnecessary. There has been no strike of any consequence among transportation employees for more than thirty years. There has been no recent threat of any serious stoppage of work. As a consequence, an attempt to justify such proposals by the claim that the public interest must be protected against strikes falls of its own weight, and leads irresistibly to the conclusion that some other motive, not so laudable as the protection of the public, is back of this legislation. To those who know conditions and have an insight into the psychology of the railroad worker, it is apparent that the enactment of such legislation will have exactly the opposite effect to that for which it is intended. It will add to existing discontent, stimulate dislocation of transportation facilities, and probably lead to a stoppage of work on a scale that has been hitherto deemed incredible.

Fundamental Considerations Involved

The fundamental considerations which are involved in a permanent railroad policy and for the correct working out of which time and study are necessary are fourfold in number. In the first place, justice must be done to those who represent capital invested in the transportation industry. These rights are comparatively easy of ascertainment and satisfaction. The government can, by judicial process, determine the amount of capital which has been prudently and honestly invested in the railroads and acquire the ownership of the properties by justly reimbursing those who represent capital. There should be no confiscation of investment values, or rigid adherence to any theory of valuation which, while logically correct, would result in loss and injustice. Acquisition of and reimbursement for railroad properties should proceed after a judicial consideration of all the facts and interests involved and should follow the lines of an equitable adjustment of the claims of all parties concerned.

The labor organizations, in putting forth the so-called Plumb plan, have been accused of attempting to confiscate the property of innocent persons without due process of law by failing to distinguish between those who have been responsible for improper methods of railroad finance and the holders of securities which have been improperly issued as a result of these methods. Nothing can be farther from the truth. We have no desire to injure the holdings of the much-famed "widows and orphans" or to re-

duce the reserve of savings banks and other institutions. This charge against us is especially absurd since our own people are large depositors in savings banks and similar institutions, who unfortunately may have been victimized in the past by the vendors of railroad stocks and bonds. We wish to see justice done for the public and to all parties concerned. We know of no better method to attain this end than by judicial consideration and determination of values of railroad property and securities upon the basis of the equities and the facts.

In the second place, another essential condition to government acquisition and operation of the transportation industry should be the guarantee to railway labor of its fundamental rights. The legislation enacted should contain an industrial code, so to speak, which would embody the fundamental guarantees to labor upon which future adjustments of wages and working conditions should be based. These principles were sanctioned by our government during the war and were embodied in the so-called principles of the National War Labor Board. They are also contained in the peace treaty in the labor provisions of the Covenant of the League of Nations. Among the most important of these is the right of workers to organize and deal collectively through their own chosen representatives, an eight-hour workday, and the right to a living wage. By way of illustration, as a preliminary to a permanent railway policy, there should be, after a complete investigation, a determination of a living wage for all occupational groups which would afford not only subsistence but a reasonable standard of health and comfort to the families of railway workers. Upon the basis of these minimum standards of a living wage, differentials should then be fixed varying according to the productive worth of employees to the industry, corresponding to their training, skill and experience. With the acceptance and practical application of these and other fundamental rights of labor in the fundamental law, railroad employees would be satisfied, future adjustments between labor and management would be comparatively easy, and there would be no danger of strikes or dislocations.

In the third place, the policy should be accepted at the outset and should be given a practical application, under which employees and managers should participate in increases in railway earnings in the form of increased wages or salary payments, and the public should be guaranteed a similar participation in the shape of

lower transportation charges or more improved and safer transportation facilities. Such a policy would make for economy and efficiency of railway operation and would bring all interests concerned into enthusiastic cooperation in making public operation a success.

Finally, the constraining motive at all times should be public service and the public good. The interest of the public is obviously paramount. With the recognition and observance of the fundamental rights of or safeguards to labor in the way in which I have indicated, there would be no clash between railway employees and the government. The transportation workers would cordially and single-heartedly unite in operating the railroads in the interest of all the people. As a matter of fact, the interests of the public and of railroad workers would be so similar as to be indissoluble.

The Ideals of the Employees

These are the ideals and aims of railway employees. The attempt has been made to apply them concretely in the bill which we have submitted to the Congress and which is popularly known as the Plumb Plan. We do not claim that this bill is perfect. Some modifications of it will undoubtedly be necessary. We do believe, however, that the fundamental principles underlying it are absolutely sound. In this connection, I might say that our opponents have attempted to cast a stigma upon our proposals by asserting that we are endeavoring to Russianize the railroads by substituting for the present domination of capital an autocracy of labor—that we are endeavoring to secure the control of the transportation industry by labor and its operation by labor in the selfish interests of labor. It scarcely seems necessary to reply to such obvious misrepresentation. What we are trying to do is to place the railroads under democratic control, and with the fundamental rights of employees guaranteed and their future hopes safeguarded, to have the industry serve all the people, and not any one class. It is our purpose to see the present domination and exploitation of the industry by capital supplanted by a democratic control and administration.

Since our own Declaration of Independence and the French Revolution, the principles of political democracy have been growing and spreading over the face of the earth until they have now practically been accepted by all civilized peoples. The

experience of recent years with political democracy has taught us that it will be a failure unless it is supplemented by rational measures of industrial democracy. Industry must cease to dominate our democratic institutions. Industry must be subordinated to our democratic institutions and ideals. The members of the railway labor organizations are peculiarly American. They are principally born of native fathers whose fathers and grandfathers were in turn of native birth. They cannot be accused of being corrupted by foreign doctrines which are revolutionary, fallacious and unsound. They are Americans from the beginning. They are Americans now. Their present purpose is not to "Russianize" but to "Americanize" the railroads. We wish their management and operation to be brought into conformity with the democratic aspirations and ideals of the founders of our self-governing republic. It is because we desire this and are working for it that we urge the extension of the present government control of railroads for a period of two years so that time may be given the people to study the problem and pass upon it intelligently.

To hurry the railroads now back to private ownership and operation by means of the Cummins Bill, the Esch Bill, or any other legislation, would, in our estimation, be a public calamity.